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STATE FOR NEA/MAG AND G/DRL/TIP AND WMN

E.O. 12958: N/A

TAGS: [PHUM](#) [PGOV](#) [KWMN](#) [KTIP](#) [KISL](#) [MO](#)

SUBJECT: THE MARRIAGE OF MINORS, POLYGAMY AND DIVORCE: THE  
MUDAWANA FOUR YEARS ON

1. SUMMARY: (U) Women's groups and the media roundly criticized the government's failure to implement some aspects of the Mudawana or family code nearly four years after the ground-breaking reforms were passed. The criticism was prompted by a recent report by the Democratic League for the Rights of Women (LDDF) which shows that the number of requests for marriage of minor girls has increased over the last few years and that judges approved these requests in nearly 90% of all cases. The LDDF is a respected NGO, whose views tend to reflect a broader consensus in the moderate feminist community. The report also sheds insight into the state of polygamy and divorce in Morocco and the achievements and shortcomings of the government in enforcing these reforms. END SUMMARY.

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The Mudawana: Family Code Reform  
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2. (U) The landmark reforms contained in the Mudawana were passed in 2004 after a contentious battle within the Moroccan society that saw stringent opposition from Islamic and conservative groups who characterized the reforms as an attack on Islamic and Moroccan tradition. The reforms finally were passed when King Mohammed VI intervened in their favor and brokered a compromise. The Mudawana reforms made divorce procedures more equitable by abolishing divorce by repudiation and gave women greater legal independence by removing the need for a woman to have a male marriage tutor oversee the negotiation of her marriage contract. Most importantly, the new law raised the minimum age of marriage from 15 to 18 years of age and required that a judge approve any requests for underage marriages and polygamy.

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Obstacles to Implementation  
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3. (U) The NGO Ligue Democratique Pour les Droits des Femmes (Democratic League for the Rights of Women - LDDF) released its annual report on implementation of the Mudawana in early October to commemorate the Moroccan Day of the Woman. The figures quoted in their report were taken from the Moroccan Ministry of Justice as well as from seven regional courts including large urban centers such as Casablanca, Rabat, and Marrakech. The President of LDDF, Fouzia Assouli, told poloff that despite significant reform, the Mudawana was written to give family court judges discretionary power to adjudicate petitions which she believes have been widely abused. Assouli reported that often families, especially in rural areas, will marry their daughters and then present them

to the judge as a fait accompli. Moreover, she claimed that in addition to some judges, &backward mentality8 there is widespread bribing of judges to ensure a favorable outcome.

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Marriage of Minors  
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¶4. (U) Although the marriage of minors accounts for only 10% of all marriages in Morocco, many women,s rights groups view it as a litmus test of the government,s resolve to implement the Mudawana reforms. The report by the LDDF shows that in 2007 there were 38,710 marriage requests for minors, an increase of 28% in comparison to 30,312 in 2006. Notably, petitions for minor marriages in rural areas increased by 50%, whereas urban area requests only increased 9%. The overall approval rate of all underage marriage requests remained steady at around 88% for the last two years. Nearly 70% of the requests involved girls who were at least 17 years of age, an improvement from 2006 when 17-year-olds only accounted for 44% of the total. Still, there were 159 cases of 14 year old girls approved for marriage in 2007 and 1,862 of 15 year olds. Assouli attributes the overall high approval numbers to corruption and the conservative mentality of judicial officials.

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Polygamy:  
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¶5. (U) The Mudawana reformed polygamy laws by requiring a husband to notify his current wife and seek permission from a judge before taking a second wife. Furthermore, a man must demonstrate that he has the financial means to support a second wife and he may also be required by the judge to provide an "exceptional objective argument" such as a medical reason (i.e. the infertility of the first wife). The LDDF report indicates that both the number of petitions and the acceptance rate for marrying a second wife remained largely unchanged from last year. In 2006 there were 1,450 petitions with an acceptance rate of 31% and in 2007 there were 1,427 petitions with an acceptance of 30%. These numbers are a significant change from 2005, the year immediately following the passage of the Mudawana, when there was an 85% acceptance rate. The Ministry of Justice, however, has not provided any statistics on the number of petitions that were approved in ¶2005.

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Divorce:  
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¶6. (U) Prior to the passage of the Mudwana reforms, a husband could in practice divorce his wife by repudiation and was not required to notify her until the divorce was final. The Mudawana now includes greater legal protections to ensure that a woman receives financial compensation from a divorce and cannot be forced out of the family home if she is the guardian of the children. Prior to the reforms a woman seeking to initiate a divorce had limited options that were often prejudicial to her financial interests. A woman could obtain either a Khula (compensation) divorce where she paid compensation (usually her dowry) to her husband or file a Shikak (complaint) citing the husband,s failure to fulfill his marital obligations. The Mudawana reforms created a new class of divorce by mutual consent. The total number of divorces per year between 2005 and 2006 has remained steady around 28,000 cases. There was a decrease of 10% in the number of Khula divorces and increase by 22% of mutual consent divorces between 2006 and 2007. The number of Shikak divorces increased by 80% from 10,313 in 2006 to 18,562 in 2007, a fact that Assouli attributes to women being more aware of their rights and thus seeking compensation.

¶7. (U) Perhaps the most telling statistic is the marked decrease in the number of total divorces in the country from 50,763 in 1998 to 27,904 in 2007 or a decrease of 55%.

Assouli credits the decrease in the divorce rate to the Mudawana reforms and believes that since husbands are no longer able to divorce their wives without providing financial compensation they are more reluctant to do so.

18. (SBU) COMMENT: The government of Morocco, relative to other Arab countries, has made great strides in advancing the legal rights of women. However, the LDDF report demonstrates that in some areas it has failed to ensure the reforms are comprehensively implemented and that judicial officials are held accountable for failing to protect minors. Morocco has an activist and energetic women's rights movement which strives to hold the government to account. The woman's movement is also pushing for greater legal reform and considers changing the inequitable inheritance laws which favors male inheritors to be a top priority. END COMMENT.

19. (U) This message has been coordinated with Embassy Rabat.  
MILLARD